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Signed and Filed: June 15, 2007

THOMAS E. CARLSON
 U.S. Bankruptcy Judge

Attorneys for Debtor
 FLETCHER H. HYLER

IN THE UNITED STATES BANKRUPTCY COURT
 THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

In re Fletcher Hartwell Hyler,) Case No. 04-32952-TEC
) Chapter 11
Debtor.)
) Date: June 12, 2007
) Time: 10:00 a.m.
) Place: 235 Pine Street, 23 rd Floor
) San Francisco, California
)
)
)

**ORDER APPROVING TRANSFER AND ABANDONMENT
 OF CERTAIN PROPERTY INTERESTS TO THE DEBTOR**

1. This matter came on for hearing on June 1 and 12, 2007, before this Court on the motion of Andrea A. Wirum, Inc., trustee herein ("Trustee"), for approval of a settlement agreement with Investment Grade Loans, Inc. and related defendants (collectively, "IGL" as more specifically defined below) in adversary proceeding number 06-03164 ("the motion") and the objections thereto filed by Fletcher Hartwell Hyler, debtor herein ("Debtor") and Sheryl Root Hyler, the Debtor's wife ("Mrs. Hyler").

2. As set forth in the certificates of service filed with the Court, notice of the motion was duly served on May 10, 2007 on (a) the debtor, (b) all creditors and interested parties, (c) each entity known to the Trustee to have filed a notice of appearance in the Chapter 11 case of Debtor, (d) each entity known to have a lien or other interest in the Debtor's residence, and (e) the United

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1 States Trustee.

2 3. On June 1, 2007, the Court conducted an initial hearing, with counsel appearing for
3 Trustee, Debtor and Mrs. Hyler. The Trustee and Debtor were also present. On June 4, 2007, the
4 Court issued its Order Setting Continued Hearings, Deadlines, And Auction Procedures (“the June
5 4, 2007 Order”), which was entered in the docket on June 5, 2007 and was served upon the parties
6 and their counsel who were present at the June 1, 2007 hearing. In the June 4, 2007 Order, the
7 Court directed that, subject to certain conditions, an auction procedure would occur between IGL
8 and the Debtor for the purchase of the claims and causes of action asserted by the Trustee against
9 IGL in adversary proceeding number 06-03164.

10 4. On June 12, 2007, the Court conducted a further hearing, with counsel appearing for
11 Trustee, Debtor and IGL. The Trustee, Debtor and a representative of IGL were also present. The
12 Court sustained objections raised by Debtor to the Trustee’s proposed settlement agreement with
13 IGL, authorized the Trustee to take further action toward a settlement, and permitted the Trustee to
14 conduct the auction pursuant to the procedures set forth in the June 4, 2007 Order. The auction
15 was conducted, and Debtor made the highest bid at \$200,000. Following the auction, the Debtor
16 tendered to the Trustee certified funds in the amount of \$176,000 towards payment of the total
17 amount owed.

18 5. This Court has jurisdiction to approve the transfer of rights and interests and
19 abandonment of real property as a core proceeding under 28 U.S.C. §§ 157(b) and 1334. The
20 substitution of proper parties (here, the Debtor and Mrs. Hyler in place and stead of the Trustee, as
21 plaintiffs in adversary proceeding number 06-03164) upon transfer of interest is authorized by
22 Federal Rule of Civil Procedure 25(c), the requirements of which have been satisfied. Further,
23 abandonment is authorized by 11 U.S.C. § 554, the requirements of which have been satisfied.

24 6. The transfer price of \$200,000 for the rights and interests transferred to Debtor is fair
25 and reasonable; the transfer of rights and interests and the abandonment of real property herein are
26 pursuant to the exercise of the sound business judgment of the Trustee and are in the best interests
27 of the bankruptcy estate; and the transaction described herein is an arm’s length transaction
28 negotiated and entered into in good faith by both parties.

The Court having determined that notice was appropriate under the circumstances of this case and pursuant to the above-stated findings and conclusions of law pursuant to Federal Rules of Bankruptcy Procedure 9014 and 7052 and Rule 52 of the Federal Rules of Civil Procedure, and good cause appearing therefor, IT IS HEREBY ORDERED AND DECREED:

7. The Debtor was the high bidder and based thereon shall pay to the Trustee the total sum of \$200,000 for the claims and causes of action referenced in this paragraph. When payment is made in full, the Trustee shall transfer to the Debtor and his spouse, Sheryl Root-Hyler ("Mrs. Hyler") any and all claims and causes of action, including but not limited to those arising under the Federal Truth in Lending Act, 15 U.S.C. § 1601 *et seq.* ("the TILA claims" or "IGL Causes of Action") the Trustee may hold, or at any time has held, against Investment Grade Loans, Inc., as principal and as agent for Lincoln Trust Company as Custodian, FBO Doug Pickering, IRA, Chern S. Lin, Felicia Lin, Janice Tempey, Roy S. Wolf, Thomas C. O'Connell, Jr., Janice K. O'Grady, Pensco Trust Company as custodian FBO John A. Snyder IRA, Pensco Trust Company as custodian FBO Phil Ahlfeldt, IRA, and John Stevens (collectively "IGL"), including, but not limited to, those claims set forth in the pending adversary proceeding of *Andrea A. Wirum, Trustee v. Investment Grade Loans, Inc., et al.*, AP No. 06-03164 ("the IGL Action") now pending in this Court. The TILA claims and the IGL Causes of Action are being transferred by the Trustee to the Debtor and Mrs. Hyler pursuant to the terms of this Order.

8. The Debtor and Mrs. Hyler shall be deemed substituted as plaintiffs in the IGL Action upon the filing of the Notice of Payment provided in paragraph 12 below, and upon such substitution, Adversary Proceeding No. 06-03164 shall be transferred to the United States District Court for the Northern District of California, San Francisco division.

9. The real property commonly known as 5070 Alpine Road, Portola Valley, California 94028 ("the Real Property") is abandoned by the Trustee to the Debtor upon the Trustee's filing of the Notice of Payment, as described below.

10. Following the foregoing transfer of rights and interests, and the abandonment of the Real Property, (a) the Debtor and Mrs. Hyler, and each of them, shall have no claims against the estate, the Trustee, her agents or attorneys regarding or related to the Real Property, the TILA

1 claims and/or the IGL Causes of Action, whether such claims are known or unknown, foreseen or
2 unforeseen, patent or latent, and (b) the Trustee shall have no claims against the Debtor and Mrs.
3 Hyler, and each of them, their agents or attorneys regarding or related to the Real Property, the
4 TILA claims and/or the IGL Causes of Action, whether such claims are known or unknown,
5 foreseen or unforeseen, patent or latent.

6 11. The Debtor shall pay to the Trustee, in certified funds, the \$24,000 balance due under
7 paragraph 7 hereinabove within 48 hours after the conclusion of the June 12, 2007 hearing.

8 12. Upon the Trustee's receipt of the balance owed under paragraph 11, the Trustee shall
9 promptly: a) file a notice thereof in this bankruptcy case ("Notice of Payment") declaring that full
10 payment has been made; b) cease all efforts to market the Real Property for sale; and c) cancel the
11 sales listing for the Real Property. Upon the filing of the Notice of Payment, the TILA claims and
12 IGL Causes of Action shall be deemed transferred by the Debtor's bankruptcy estate to Debtor and
13 Mrs. Hyler as provided in paragraph 7 hereinabove, the Debtor and Mrs. Hyler shall be deemed
14 substituted as plaintiffs in the IGL Action (Adversary Proceeding No. 06-03164) as provided in
15 paragraph 8 hereinabove, and the Real Property shall be deemed abandoned by the Debtor's
16 bankruptcy estate as provided in paragraph 9 hereinabove.

17 13. The Trustee and her professionals are authorized and directed to sign and file such
18 pleadings and documents and take such actions as are reasonably necessary to consummate the
19 transfer of interests and abandonment of real property described herein.

20 14. Debtor and Mrs. Hyler, upon their substitution as plaintiffs in the IGL Action, and the
21 Clerk of this Court are authorized and directed to sign and file such pleadings and documents and
22 to take such actions as are necessary to transfer Adversary Proceeding No. 06-03164 to the United
23 States District Court for the Northern District of California, San Francisco division.

24 15. This Order supersedes for all purposes the June 4, 2007 Order Setting Continued
25 Hearings, Deadlines, And Auction Procedures.

26 16. This Order shall not become effective until June 22, 2007. The Court hereby orders
27 that any other stay that might apply to this Order shall not go into effect.

28 **END OF ORDER**

COURT SERVICE LIST

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